

PATENT
09/615,039
Docket 019/251a

REMARKS

The restriction requirement of May 29, 2002 has now been withdrawn in favor of a new restriction requirement. Specifically, applicant has been asked to select between:

- Group I: Claims 27-38 and 40, drawn to recombinant virus and its production
- Group II: Claim 39, drawn to a method of screening
- Group III: Claims 41-46, drawn to methods of using recombinant virus

Upon election of Group I, applicant has also been asked to elect either SEQ. ID NO:1 or SEQ. ID NO:2 within the context of the elected claims.

Applicant hereby elects Group I for prosecution on the merits without traverse.

Applicant also elects SEQ. ID NO:1 for initial examination.

However, applicant respectfully *traverses* the restriction between SEQ. ID NOs:1 and 2. The disclosure provides a number of promoter polynucleotides that preferentially promote transcription in cells expressing telomerase reverse transcriptase (TERT). These include not only the hTERT and mTERT promoters, but also variants of TERT that share a degree of homology with either or both sequences. See page 6, line 43 to page 7, line 26. The disclosure provides an extensive dissection of the promoter sequence regarding transcription regulatory sequences. Based on this information, and the extensive discussion of empirical testing (e.g., Examples 2 and 5), the skilled reader will readily be able to produce a genus of promoter sequences suitable for use in the recombinant virus that is claimed.

Claim 1 links all of these species. Accordingly, there should be no restriction of SEQ. ID NO:1 or SEQ. ID NO:2.

In the event that the restriction between SEQ. ID NOs:1 and 2 is made final, applicant requests that SEQ. ID NO:2 and its variants be rejoined into the application upon determination that the claimed invention is free of the prior art.

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Information Disclosure Statement

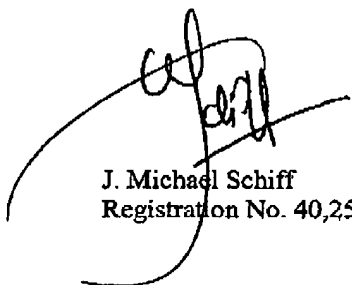
A further Information Disclosure Statement will be filed in this application in the near future for consideration by the Examiner.

Applicant respectfully requests that the application proceed to examination on the merits, in view of the remarks made herein, and the information disclosed in the previous and upcoming IDSes.

In the event the Examiner determines that an interview would facilitate prosecution of this application, he is invited to contact applicant's representative at the telephone number indicated below.

Should the Patent Office determine that an extension of time or any other relief is required for further consideration of this application, applicant hereby petitions for such relief, and authorizes the Commissioner to charge the cost of such petitions and other fees due in connection with the filing of these papers to Deposit Account No. 07-1139, referencing the docket number indicated above.

Respectfully submitted,



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Facsimile Transmittal Sheet

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